

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 316

Introduced by Brashear, 4

Read first time January 12, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to medical examiners; to amend sections
2 12-1208, 23-1206, 23-1801, 23-1802, 28-1804 to 23-1806,
3 23-1808 to 23-1823, 25-1223, 25-1230, 25-1232, 25-1524,
4 25-1542, 25-1548, 25-2202, 29-407, 29-1401, 29-2815,
5 49-801, 60-6,101, 60-6,102, 71-605.04, 71-1612, 71-3405,
6 71-3408, 71-3409, 71-4813, and 83-1011, Reissue Revised
7 Statutes of Nebraska, and sections 71-605 and 71-3410,
8 Revised Statutes Supplement, 1998; to adopt the
9 Post-Mortem Examinations Act; to eliminate the office of
10 county coroner; to harmonize provisions; to provide
11 operative dates; to provide severability; to repeal the
12 original sections; and to outright repeal section
13 23-1210, Reissue Revised Statutes of Nebraska.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known
2 and may be cited as the Post-Mortem Examinations Act.

3 Sec. 2. For purposes of the Post-Mortem Examinations
4 Act:

5 (1) Commission means Commission on Post-Mortem
6 Examinations; and

7 (2) Office means Office of Post-Mortem Examinations.

8 Sec. 3. The Commission on Post-Mortem Examinations is
9 created. The members of the commission include the Attorney
10 General, the Superintendent of Law Enforcement and Public Safety,
11 the Director of Health and Human Services, the dean of the College
12 of Medicine of the University of Nebraska Medical Center, and the
13 dean of the College of Law of the University of Nebraska. The
14 chief medical examiner shall serve as an ex officio member. The
15 commission shall select a chairperson and vice-chairperson from its
16 membership and the chief medical examiner shall serve as secretary.
17 Members of the commission shall receive no compensation but shall
18 be reimbursed for any actual and necessary expenses incurred in the
19 performance of duties as provided in sections 81-1174 to 81-1177.
20 The commission shall meet at least once annually.

21 Sec. 4. The Office of Post-Mortem Examinations is
22 established and shall operate under the control and supervision of
23 the commission. The office shall be administered by the chief
24 medical examiner who shall be exempt from the State Personnel
25 System. The commission may employ such assistant medical
26 examiners, pathologists, toxicologists, laboratory technicians,
27 regional medical examiners, and other staff members as deemed
28 necessary. Unless otherwise provided by the commission, such

1 employees shall be deemed state employees and covered by the State
2 Personnel System pursuant to sections 81-1301 to 81-1368 and other
3 personnel rules or regulations.

4 Sec. 5. The commission shall appoint a chief medical
5 examiner to serve at the pleasure of the commission for a salary
6 fixed by the commission. The chief medical examiner shall be a
7 citizen of the United States and a physician licensed in this state
8 who has a minimum of two years postgraduate training in pathology.
9 Duties of the chief medical examiner, or his or her designee, may
10 include teaching medical or law school classes, conducting seminars
11 or training for police investigators, and engaging in other
12 work-related activities to such extent and on such terms as
13 authorized by the commission.

14 Sec. 6. The office shall investigate the following human
15 deaths:

16 (1) Violent deaths, whether apparently homicidal,
17 suicidal, or accidental, including, but not limited to, deaths due
18 to thermal, chemical, electrical, or radiational injury and deaths
19 due to criminal abortion, whether apparently self-induced or not:

20 (2) Sudden deaths not caused by readily recognizable
21 disease;

22 (3) Deaths under suspicious circumstances;

23 (4) Deaths of persons whose bodies are to be cremated,
24 dissected, buried at sea, or otherwise disposed of so as to be
25 thereafter unavailable for examination;

26 (5) Deaths of inmates of public institutions not
27 hospitalized for organic disease;

28 (6) Deaths related to disease resulting from employment

1 or to accident while employed; and

2 (7) Deaths related to disease which may constitute a
3 threat to public health.

4 Sec. 7. Autopsies shall be conducted by the office in
5 cases in which, in the judgment of the chief medical examiner, the
6 public interest requires an autopsy. In determining whether the
7 public interest requires an autopsy, the chief medical examiner
8 shall take into account, but shall not be bound by, requests from
9 private persons or public officials, except that the prosecuting
10 attorney of the affected county shall have the right to require an
11 autopsy.

12 Sec. 8. (1) All law enforcement officers, prosecuting
13 attorneys, and other officials shall cooperate fully with an
14 investigation or autopsy by the office. Such officials and all
15 physicians, funeral directors, embalmers, and other persons shall
16 promptly notify the office of any death coming to their attention
17 which is subject to investigation by the office and shall assist in
18 making dead bodies and related evidence available to the office for
19 investigation and autopsy. In cases of apparent homicide, of
20 suicide, or of accidental death the cause of which is obscure, the
21 scene of the event shall not be disturbed until authorization by
22 the chief medical examiner or his or her designee is given. In
23 conducting his or her investigation, the chief medical examiner or
24 his or her designee shall take possession of any objects or
25 writings which in his or her opinion may be useful in establishing
26 the cause of death and deliver the objects or writings to the
27 appropriate law enforcement officials.

28 (2) Any physician, funeral director, or embalmer who

1 willfully fails to comply with this section shall be guilty of a
2 Class IV misdemeanor.

3 Sec. 9. The office shall maintain a laboratory or
4 laboratories suitably equipped with medical, scientific, and other
5 facilities for performance of the duties imposed by the Post-Mortem
6 Examinations Act. Laboratories may be maintained in collaboration
7 with the Nebraska State Patrol, the University of Nebraska Medical
8 Center, and any other agencies in the state which have facilities
9 that can be used to perform the duties of the office. The manner
10 of compliance with this section shall be in the discretion of the
11 commission.

12 Sec. 10. (1) The office shall keep full and complete
13 records, properly indexed, of every person whose death is
14 investigated by the office and shall issue death certificates for
15 such persons. Records maintained by the commission shall include
16 the name of the decedent, if known; the place where the body was
17 found; the date, cause, and manner of death; and all other relevant
18 information concerning the death. A full report and detailed
19 findings of the autopsy, if any, shall be a part of the record in
20 each case.

21 (2) The office shall promptly deliver to the prosecuting
22 attorney having criminal jurisdiction over the case copies of its
23 records relating to a death for which further investigation may be
24 available. Any prosecuting attorney, sheriff, chief of police, or
25 the Superintendent of Law Enforcement and Public Safety may upon
26 request secure copies of such records or other information deemed
27 necessary by him or her to the performance of his or her official
28 duties. Private persons may obtain copies of records upon such

1 conditions and payment of such fees as may be prescribed by the
2 commission, except that no person with a legitimate interest in the
3 case records shall be denied access to such records.

4 Sec. 11. The records of the office, or transcripts of
5 records certified by the chief medical examiner, are admissible in
6 evidence in any court of this state, except that statements by
7 witnesses or other persons and conclusions upon extraneous matters
8 are not admissible. A person who prepared a report or record
9 pursuant to the Post-Mortem Examinations Act and which report or
10 record is given in evidence may be subpoenaed as a witness by any
11 party to a civil or criminal case.

12 Sec. 12. The Post-Mortem Examinations Cash Fund is
13 created. The fund shall be used to implement the Post-Mortem
14 Examinations Act. Any money in the fund available for investment
15 shall be invested by the state investment officer pursuant to the
16 Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 Sec. 13. The commission may adopt and promulgate rules
19 and regulations necessary and appropriate to effectively carry out
20 the Post-Mortem Examinations Act.

21 Sec. 14. Section 12-1208, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 12-1208. (1) Upon notification pursuant to section
24 12-1206, the society shall promptly assist in examining the
25 discovered material to attempt to determine its origin and
26 identity.

27 (2) If the society finds that the discovered human
28 skeletal remains or burial goods are of non-American-Indian origin

1 with a known or unknown identity, it shall notify the county
2 attorney of the finding. Upon receipt of the finding, the county
3 attorney shall cause the remains and associated burial goods to be
4 interred in consultation with the ~~county coroner~~ chief medical
5 examiner or his or her designee. Reburial shall be in accordance
6 with the wishes and at the expense of any known relatives in the
7 order listed by section 71-1339 or, if no relatives are known, in
8 an appropriate cemetery at the expense of the county in which the
9 remains were discovered after a one-year scientific study period if
10 such study period is considered necessary or desirable by the
11 society. In no case shall any human skeletal remains that are
12 reasonably identifiable as to familial or tribal origin be
13 displayed by any entity which receives funding or official
14 recognition from the state or any of its political subdivisions.
15 In situations in which human skeletal remains or burial goods that
16 are unidentifiable as to familial or tribal origin are clearly
17 found to be of extremely important, irreplaceable, and intrinsic
18 scientific value, the remains or goods may be curated by the
19 society until the remains or goods may be reinterred as provided in
20 this subsection without impairing their scientific value.

21 (3) If the society finds that the discovered human
22 skeletal remains or burial goods are of American Indian origin, it
23 shall promptly notify in writing the Commission on Indian Affairs
24 and any known relatives in the order listed in section 71-1339 or,
25 if no relatives are known, any Indian tribes reasonably identified
26 as tribally linked to such remains or goods in order to ascertain
27 and follow the wishes of the relative or Indian tribe, if any, as
28 to reburial or other disposition. Reburial by any such relative or

1 Indian tribe shall be by and at the expense of such relative or
2 Indian tribe. In cases in which reasonably identifiable American
3 Indian human skeletal remains or burial goods are unclaimed by the
4 appropriate relative or Indian tribe, any such remains or goods
5 shall be reburied as provided in subsection (2) of this section.

6 Sec. 15. Section 23-1206, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 23-1206. No prosecuting attorney shall receive any fee
9 or reward from or on behalf of any prosecutor or other individual
10 for services in any prosecution or business which it ~~shall be~~ is
11 his or her official duty to attend. No prosecuting attorney + nor
12 shall he act or be concerned, as an attorney or counsel for either
13 party, other than for the state or county, in any civil action
14 depending upon the same state of facts upon which any criminal
15 prosecution, commenced or prosecuted, ~~shall depend, or depending~~
16 ~~upon the same state of facts, investigated by him, while acting as~~
17 ~~county coroner depends.~~

18 Sec. 16. Section 23-1801, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 23-1801. The ~~coroner~~ county attorney shall hold an
21 inquest upon the dead bodies of such persons only as are supposed
22 to have died by unlawful means. When the ~~coroner~~ county attorney
23 has notice of the presence in the county of the body of a person
24 supposed to have died by unlawful means, the ~~coroner~~ county
25 attorney may, at his or her discretion, request the county court to
26 issue a warrant to a sheriff of the county requiring the sheriff to
27 summon six residents of the county to appear before the ~~coroner~~
28 county attorney at a time and place named in the warrant. Each

1 juror shall receive for each day employed in the discharge of his
2 or her duty the sum of twenty dollars to be paid by certificate
3 drawn by the ~~coroner~~ county attorney on the general funds of the
4 county.

5 Sec. 17. Section 23-1802, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 23-1802. The warrant may be in substance as follows:
8 The State of Nebraska, County. To any sheriff of
9 such county:

10 In the name of the people of the State of Nebraska, you
11 are hereby required to summon six residents of your county to
12 appear before ~~me~~ the county attorney at, on the
13 day of 19...., then and there to hold an inquest upon
14 the dead body of, there lying, and by what means
15 such person died. Witness my hand this day of
16 A.D. 19..... ~~Coroner~~ County Attorney.

17 Sec. 18. Section 23-1804, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 23-1804. If any juror fails to appear, the ~~coroner~~
20 county attorney shall cause the proper number to be summoned or
21 returned from the bystanders immediately, and proceed to impanel
22 them and administer the following oath in substance: You do
23 solemnly swear that you will diligently inquire and true
24 presentment make, when, how, and by what means the person whose
25 body lies here dead came to his or her death, according to your
26 knowledge and the evidence given you, so help you God.

27 Sec. 19. Section 23-1805, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 23-1805. Whoever, being so summoned as a juror, fails or
2 refuses, without good cause, to attend at the time and place
3 required, or, appearing, refuses to act as such juror, or
4 misbehaves while acting as such juror, shall, on complaint of the
5 ~~coroner~~ county attorney before the county court, be fined not less
6 than three nor more than twenty dollars.

7 Sec. 20. Section 23-1806, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 23-1806. The ~~coroner~~ county attorney may issue subpoenas
10 within the county for witnesses, returnable forthwith, or at such
11 time and place as the ~~coroner~~ county attorney shall therein direct.

12 Sec. 21. Section 23-1808, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 23-1808. If the evidence of any witness ~~shall implicate~~
15 implicates any person as the unlawful slayer of the person over
16 whom the ~~said~~ inquisition ~~is~~ ~~shall be~~ held, the ~~coroner~~ county
17 attorney shall recognize such witness, in such sum as the ~~coroner~~
18 county attorney may think proper, to be and appear at the next term
19 of the district court for the ~~said~~ county, there to give evidence
20 of the matter in question and not depart without leave. Such
21 recognizance shall be in the same form, as nearly as practicable,
22 and have the same effect as recognizances taken in county court in
23 cases of felony.

24 Sec. 22. Section 23-1809, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 23-1809. The jurors, having inspected the body, heard
27 the testimony and made all needful inquiries, shall return to the
28 ~~coroner~~ county attorney their inquisition in writing, under their

1 hands, in substance as follows, and stating the matter in the
2 following form, as nearly as practicable:

3 State of Nebraska, County. At an
4 inquisition held at, in County, on the
5 day of A.D. 19...., before me,,
6 ~~coroner of said county~~ county attorney, upon the body of,
7 lying dead, by the jurors whose names are hereto subscribed, the
8 ~~said~~ jurors upon their oath do say (Here state when,
9 how, or by what person, means, weapon, or accident the person came
10 to his or her death, and whether feloniously). In testimony
11 whereof the ~~said~~ jurors have hereunto set their hands the day and
12 year aforesaid. Attest:, ~~Coroner~~ County Attorney.

13 Sec. 23. Section 23-1810, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 23-1810. The verdict of the ~~coroner's~~ inquest jury,
16 charging any person with murder or manslaughter, shall have the
17 same force and effect as the finding of a bill of indictment by the
18 grand jury, until the case ~~shall have been~~ is investigated by a
19 grand jury, and they ~~shall~~ have made their return thereon.

20 Sec. 24. Section 23-1811, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 23-1811. If the person charged is present, the ~~coroner~~
23 county attorney may order his or her arrest by an officer or any
24 other person present and shall then make a warrant requiring the
25 officer or other person to take him or her before the county court
26 for examination. If ~~or if~~ the person charged is not present and
27 the ~~coroner~~ county attorney believes the person can be taken, the
28 ~~coroner~~ county attorney may issue a warrant to the sheriff

1 requiring him or her to arrest the person and take the person
2 charged before the county court for examination.

3 Sec. 25. Section 23-1812, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 23-1812. The warrant of a ~~coroner~~ in the above-stated
6 ~~cases shall be~~ county attorney pursuant to sections 23-1801 to
7 23-1819 is of equal authority with that of the county court. When
8 ~~+~~ ~~and when~~ the person charged is brought before the court, the
9 person charged shall be dealt with as a person held under a
10 complaint in the usual form.

11 Sec. 26. Section 23-1813, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 23-1813. The warrant of the ~~coroner~~ county attorney
14 shall recite substantially the verdict of the jury of inquest, and
15 such warrant shall be a sufficient foundation for the proceedings
16 of the justice instead of a complaint.

17 Sec. 27. Section 23-1814, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 23-1814. The ~~coroner~~ county attorney shall return to the
20 district court the inquisition, the papers connected with the ~~same~~
21 inquisition, and a list of the names of witnesses who testified in
22 the matter.

23 Sec. 28. Section 23-1815, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 23-1815. When any valuable personal property, money, or
26 papers are found upon or near the body upon which an inquest is
27 held, the ~~coroner~~ county attorney shall take charge of the ~~same~~
28 property and deliver ~~the same~~ it to those entitled to its care or

1 possession. If not claimed, or, if the ~~same shall be~~ property is
2 necessary to defray expenses of the burial, the ~~coroner~~ county
3 attorney shall, after giving ten days' notice of the time and place
4 of sale, sell such property. After deducting funeral expenses, the
5 ~~coroner~~ county attorney shall deposit the proceeds thereof, and the
6 money and papers so found, with the county treasurer, taking
7 receipt therefor, there to remain subject to the order of the legal
8 representatives of the deceased, if claimed within five years
9 thereafter, or if not claimed within that time, to vest in the
10 school fund of the county.

11 Sec. 29. Section 23-1816, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 23-1816. The ~~coroner~~ county attorney shall cause the
14 body of each deceased person which the ~~coroner~~ county attorney is
15 caused to view, to be delivered to the friends of the deceased, if
16 there be any, but if there be none, the ~~coroner~~ county attorney
17 shall cause the body to be decently buried and the expenses shall
18 be paid from any property belonging to the deceased, or if there be
19 none, from the county treasury, by warrant drawn thereon.

20 Sec. 30. Section 23-1817, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 23-1817. When there is no ~~coroner~~ county attorney, and
23 in case of the ~~coroner's~~ county attorney's absence or inability to
24 act, the ~~sheriff of the county~~ chief medical officer or his or her
25 designee is authorized to discharge the duties of ~~coroner in~~
26 relation county attorney with respect to dead bodies.

27 Sec. 31. Section 23-1818, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 23-1818. If the ~~coroner~~ county attorney or jury deem it
2 necessary, for the purposes of an inquisition, to summon any
3 surgeons, the ~~coroner~~ county attorney shall issue a subpoena for
4 those preferred, the same as for any other witness.

5 Sec. 32. Section 23-1819, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 23-1819. The ~~coroner~~ county attorney is hereby
8 authorized and required, on a request of a majority of the
9 ~~coroner's inquest~~ jury, to issue a warrant for any person suspected
10 of having committed the crime of murder, and hold such person on
11 ~~said~~ warrant until the inquest over the body is closed.

12 Sec. 33. Section 23-1820, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 23-1820. In each county there is hereby created the
15 office of ~~coroner's physician~~, who shall be appointed by the
16 coroner of the county and be removable by the coroner, at a salary
17 or schedule of fees or both to be set by the county board and to be
18 paid by the county. ~~Such physician~~ The chief medical examiner or
19 his or her designee shall certify the cause of death in every case
20 of death in ~~such~~ each county not certified by an attending
21 physician and shall perform or cause to be performed an autopsy
22 when requested by the ~~coroner~~ county attorney. ~~Such physician~~ The
23 medical examiner or his or her designee also shall perform such
24 other services in aid of the ~~coroner~~ county attorney as shall be
25 requested by the ~~coroner~~ and shall be reimbursed for mileage at the
26 rate provided in section ~~81-1176~~ for each mile actually and
27 necessarily traveled by the most direct route, while in the
28 performance of ~~such physician's duties~~ county attorney.

1 Sec. 34. Section 23-1821, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 23-1821. (1) Every hospital, emergency care facility,
4 physician, nurse, out-of-hospital emergency care provider, or law
5 enforcement officer shall immediately notify the county ~~coroner~~
6 attorney and the chief medical examiner in all cases when it
7 appears that an individual has died while being apprehended by or
8 while in the custody of a law enforcement officer or detention
9 personnel.

10 (2) Any person who violates this section shall be guilty
11 of a Class IV misdemeanor.

12 Sec. 35. Section 23-1822, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 23-1822. In each instance when the county ~~coroner~~
15 attorney is given notice in accordance with section 23-1821, the
16 ~~coroner or coroner's physician~~ chief medical examiner shall perform
17 an examination, a test, or an autopsy as he or she may deem
18 necessary to establish, by a reasonable degree of medical
19 certainty, the cause or causes of death and shall thereafter
20 certify the cause or causes of death to the presiding judge of the
21 district court.

22 Sec. 36. Section 23-1823, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 23-1823. In the performance of his or her duties under
25 section 23-1822, the county ~~coroner~~ attorney may, when applicable,
26 invoke any or all of the provisions of sections 23-1815, 23-1816,
27 and 23-1820.

28 Sec. 37. Section 25-1223, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 25-1223. The clerks of the several courts and judges of
3 the county courts shall on application of any person having a cause
4 or any matter pending in court, issue a subpoena for witnesses
5 under the seal of the court, inserting all the names required by
6 the applicant in one subpoena, which may be served by any person
7 not interested in the action, or by the sheriff, ~~coroner~~ or
8 constable. When a subpoena is ~~+~~ ~~but when~~ served by any person
9 other than a public officer, proof of service shall be shown by
10 affidavit, but no costs of serving the ~~same~~ subpoena shall be
11 allowed, except when served by an officer.

12 Sec. 38. Section 25-1230, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 25-1230. When a witness fails to attend in obedience to
15 a subpoena, except in case of a demand and failure to pay his or
16 her fee, the court or officer before whom his or her attendance is
17 required may issue an attachment to the sheriff ~~or coroner~~ of the
18 county commanding him or her to arrest and bring the person therein
19 named before the court or officer, at a time and place to be fixed
20 in the attachment, to give his or her testimony and answer for the
21 contempt. If the attachment is not for immediately bringing the
22 witness before the court or officer, a sum may be fixed in which
23 the witness may give an undertaking with surety for his or her
24 appearance. Such sum shall be endorsed on the back of the
25 attachment, and if no sum is so fixed and endorsed, it shall be one
26 hundred dollars. If the witness is not personally served, the
27 court may, by a rule, order him or her to show cause why attachment
28 should not issue against him or her.

1 Sec. 39. Section 25-1232, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-1232. Every attachment for the arrest or order of
4 commitment to prison of a witness by a court or officer pursuant to
5 sections 25-1230 and 25-1231 shall be under the seal of the court
6 or officer, if he or she has an official seal, and shall specify
7 particularly the cause of the arrest or commitment, and if the
8 commitment is for refusing to answer a question, such question
9 shall be stated in the order. Such order of commitment may be
10 directed to the sheriff ~~or coroner~~ of the county where such witness
11 resides or may be at the time and shall be executed by committing
12 him or her to the jail of such county and delivering a copy of the
13 order to the jailer.

14 Sec. 40. Section 25-1524, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 25-1524. ~~In all cases where~~ When a sheriff, ~~coroner,~~ or
17 other officer, shall have in his or her possession by virtue of an
18 execution, ~~levy upon~~ any goods and chattels which ~~shall remain upon~~
19 ~~his hands~~ unsold, for want of bidders, for ~~the~~ want of time to
20 advertise and sell, or for any other reasonable cause, the officer
21 may, for his or her own security, take of the defendant an
22 undertaking, with security in such sum as ~~he may deem~~ the officer
23 deems sufficient. The undertaking shall require the ~~to the~~
24 ~~effect that the said~~ property shall ~~to~~ be delivered to the officer
25 holding an execution for the sale of the ~~same,~~ property at the time
26 and place appointed by ~~said~~ the officer, either by notice given in
27 writing to ~~said~~ the defendant in execution, or by advertisement,
28 published in a newspaper printed in the county, naming ~~therein~~ the

1 day and place of sale. If the defendant ~~shall fail~~ fails to
2 deliver the goods and chattels at the time and place mentioned in
3 the notice ~~to him given, or~~ or fails to pay to the officer holding
4 the execution, the full value of ~~said~~ the goods and chattels, or
5 the amount of ~~said~~ the debts and costs, the undertaking, ~~given as~~
6 ~~aforsaid,~~ shall be considered as broken, and may be proceeded on
7 as in other cases.

8 Sec. 41. Section 25-1542, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 25-1542. No judgment on which execution has not been
11 taken out and levied before the expiration of five years next after
12 its rendition shall operate as a lien upon the estate of any debtor
13 to the preference of any other bona fide judgment creditor or
14 purchaser, but when judgment has been or may be rendered in the
15 Court of Appeals or Supreme Court and any special mandate awarded
16 to the district court to carry the same into execution, the lien of
17 the judgment creditor shall continue for five years after the first
18 day of the next term of the district court to which such mandate
19 may be directed. Nothing in this section shall be construed to
20 defeat the lien of any judgment creditor who fails to take out
21 execution and cause a levy to be made as provided in this section
22 when such failure is occasioned by appeal, proceedings in error, or
23 injunction or by a vacancy in the office of sheriff ~~and coroner~~ or
24 the inability of such ~~officers~~ sheriff until one year after such
25 disability is removed.

26 Sec. 42. Section 25-1548, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 25-1548. When execution shall be issued in any county in

1 this state, and directed to the sheriff ~~or coroner~~ of another
2 county, it shall be lawful for such sheriff ~~or coroner~~ having the
3 execution, after having discharged all the duties required of him
4 or her by law, to enclose such execution by mail to the clerk of
5 the court who issued the ~~same~~ execution. On proof being made by
6 such sheriff ~~or coroner~~ that the execution was mailed soon enough
7 to have reached the office where it was issued within the time
8 prescribed by law, the sheriff ~~or coroner~~ shall not be liable for
9 any amercement or penalty if it does not reach the office in due
10 time.

11 Sec. 43. Section 25-2202, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 25-2202. An order for a provisional remedy or any other
14 process, in an action wherein the sheriff is a party, or is
15 interested, shall be directed to the ~~coroner~~ county attorney. If
16 both these officers are interested, the process shall be directed
17 to and executed by a person appointed by the court or judge.

18 Sec. 44. Section 29-407, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 29-407. The magistrate issuing any such warrant may make
21 an order thereon authorizing a person to be named in such warrant
22 to execute the warrant. The person named in such order may execute
23 such warrant anywhere in the state by apprehending and conveying
24 such offender before the magistrate issuing such warrant or before
25 some other magistrate of the same county. All sheriffs, ~~coroners,~~
26 and others when required in their respective counties shall aid and
27 assist in the execution of such warrant.

28 Sec. 45. Section 29-1401, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 29-1401. The district courts are hereby vested with
3 power to call grand juries. It shall be mandatory for such
4 district courts to call a grand jury in each case upon the petition
5 of the registered voters of the county of the number of not less
6 than ten percent of the total vote cast for the office of Governor
7 in such county at the most recent general election held for such
8 office. A grand jury may be called and summoned in the manner
9 provided by law on such day of a regular term of the district court
10 in each year in each county of the state as the district court may
11 direct and at such other times and upon such notice as the district
12 court may deem necessary. District courts shall call a grand jury
13 in each case upon certification by the county ~~coroner or coroner's~~
14 ~~physician~~ attorney or by the chief medical examiner or his or her
15 designee that an individual has died while being apprehended by or
16 while in the custody of a law enforcement officer or detention
17 personnel. Any grand jury called pursuant to this section shall be
18 limited in its charge, powers, duties, proceedings, indictment, and
19 report to the review of the incident or incidents which caused it
20 to be called.

21 Sec. 46. Section 29-2815, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 29-2815. In case of confinement, imprisonment, or
24 detention by any person not a sheriff, deputy sheriff, ~~coroner,~~
25 jailer, or marshal of this state, nor a marshal or other like
26 officer of the courts of the United States, the writ of habeas
27 corpus shall be in the form following:

28 The State of Nebraska,

1 ss

2County,

3 The People of the State of Nebraska to the Sheriff of such county,
4 greeting:

5 We command you, that the body of, of
6, by of imprisoned
7 and restrained of his or her liberty, as it is said, you take and
8 have before, a judge of our court
9, or, in case of his or her absence or disability,
10 before some other judge of the same court at, to
11 do and receive what our judge shall then and there consider
12 concerning him or her in his or her behalf, and
13 summon then and there to appear before our
14 judge to show the cause of the taking and detaining
15; and have you there this writ, with your doings
16 thereon.

17 Witness, at, this
18 day of, in the year

19 Sec. 47. Section 49-801, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 49-801. Unless the context is shown to intend otherwise,
22 words and phrases in the statutes of Nebraska hereafter enacted are
23 used in the following sense:

24 (1) Acquire when used in connection with a grant of power
25 or property right to any person shall include the purchase, grant,
26 gift, devise, bequest, and obtaining by eminent domain;

27 (2) Action shall include any proceeding in any court of
28 this state;

1 (3) Attorney shall mean attorney at law;

2 (4) Company shall include any corporation, partnership,
3 limited liability company, joint-stock company, joint venture, or
4 association;

5 (5) Domestic when applied to corporations shall mean all
6 those created by authority of this state;

7 (6) Federal shall refer to the United States;

8 (7) Foreign when applied to corporations shall include
9 all those created by authority other than that of this state;

10 (8) Grantee shall include every person to whom any estate
11 or interest passes in or by any conveyance;

12 (9) Grantor shall include every person from or by whom
13 any estate or interest passes in or by any conveyance;

14 (10) Inhabitant shall be construed to mean a resident in
15 the particular locality in reference to which that word is used;

16 (11) Land or real estate shall include lands, tenements,
17 and hereditaments and all rights thereto and interest therein other
18 than a chattel interest;

19 (12) Magistrate shall include judge of the county court
20 and clerk magistrate;

21 (13) Month shall mean calendar month;

22 (14) Oath shall include affirmation in all cases in which
23 an affirmation may be substituted for an oath;

24 (15) Peace officer shall include sheriffs, ~~coroners,~~
25 jailers, marshals, police officers, state highway patrol officers,
26 members of the National Guard on active service by direction of the
27 Governor during periods of emergency, and all other persons with
28 similar authority to make arrests;

1 (16) Person shall include bodies politic and corporate,
2 societies, communities, the public generally, individuals,
3 partnerships, limited liability companies, joint-stock companies,
4 and associations;

5 (17) Personal estate shall include money, goods,
6 chattels, claims, and evidences of debt;

7 (18) Process shall mean a summons, subpoena, or notice to
8 appear issued out of a court in the course of judicial proceedings;

9 (19) State when applied to different states of the United
10 States shall be construed to extend to and include the District of
11 Columbia and the several territories organized by Congress;

12 (20) Sworn shall include affirmed in all cases in which
13 an affirmation may be substituted for an oath;

14 (21) The United States shall include territories,
15 outlying possessions, and the District of Columbia;

16 (22) Violate shall include failure to comply with;

17 (23) Writ shall signify an order or citation in writing
18 issued in the name of the state out of a court or by a judicial
19 officer; and

20 (24) Year shall mean calendar year.

21 Sec. 48. Section 60-6,101, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-6,101. ~~Any coroner or other official performing the~~
24 ~~duties of coroner~~ The chief medical examiner or his or her designee
25 shall report in writing to the Department of Roads the death of any
26 person within his or her jurisdiction as the result of an accident
27 involving a motor vehicle and the circumstances of such accident.
28 Such report ~~by the coroner~~ shall be made within ten days after such

1 death.

2 Sec. 49. Section 60-6,102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 60-6,102. In the case of a driver who dies within four
5 hours after being in a motor vehicle accident, including a motor
6 vehicle accident in which one or more persons in addition to such
7 driver is killed, and of a pedestrian sixteen years of age or older
8 who dies within four hours after being struck by a motor vehicle,
9 ~~the coroner or other official performing the duties of coroner~~
10 chief medical examiner or his or her designee shall examine the
11 body and cause such tests to be made as are necessary to determine
12 the amount of alcohol or drugs in the body of such driver or
13 pedestrian. Such information shall be included in each report
14 submitted pursuant to sections 60-6,101 to 60-6,104 and shall be
15 tabulated on a monthly basis by the Department of Roads. Such
16 information, including the identity of the deceased and any such
17 amount of alcohol or drugs, shall be public information and may be
18 released or disclosed as provided in rules and regulations of the
19 department.

20 Sec. 50. Section 71-605, Revised Statutes Supplement,
21 1998, is amended to read:

22 71-605. (1) The funeral director and embalmer in charge
23 of the funeral of any person dying in the State of Nebraska shall
24 cause a certificate of death to be filled out with all the
25 particulars contained in the standard form adopted and promulgated
26 by the Department of Health and Human Services Finance and Support.
27 Such standard form shall include a space for certificate of veteran
28 status and the period of service in the armed forces of the United

1 States as defined in section 80-401.01 and a statement of the cause
2 of death made by a person holding a valid license as a physician
3 who last attended the deceased. The standard form shall also
4 include the deceased's social security number. Death and fetal
5 death certificates shall be completed by the funeral directors and
6 embalmers and physicians for the purpose of filing with the
7 department and providing child support enforcement information
8 pursuant to section 43-3340.

9 (2) The physician shall have the responsibility and duty
10 to complete and sign in his or her own handwriting, within
11 twenty-four hours from the time of death, that part of the
12 certificate of death entitled medical certificate of death. In the
13 case of a death when no person licensed as a physician was in
14 attendance, the funeral director and embalmer shall refer the case
15 to the ~~county attorney~~ chief medical examiner or his or her
16 designee for a death certificate.

17 No cause of death shall be certified in the case of the
18 sudden and unexpected death of a child between the ages of one week
19 and three years unless an autopsy is performed at county expense by
20 a qualified pathologist, unless the parents or guardian signs a
21 written waiver of the right to autopsy. The parents or guardian
22 shall be notified of the results of the autopsy by their physician,
23 a community health official, or ~~county coroner~~ the chief medical
24 examiner or his or her designee within forty-eight hours. The term
25 sudden infant death syndrome shall be entered on the death
26 certificate as the principal cause of death when the term is
27 appropriately descriptive of the pathology findings and
28 circumstances surrounding the death of a child.

1 If the circumstances show it possible that death was
2 caused by neglect, violence, or any unlawful means, the case shall
3 be referred to the ~~county attorney~~ chief medical examiner for
4 investigation and certification. The ~~county attorney~~ chief medical
5 examiner or his or her designee shall, within twenty-four hours
6 after taking charge of the case, state the cause of death as
7 ascertained, giving as far as possible the means or instrument
8 which produced the death. All death certificates shall show
9 clearly the cause, disease, or sequence of causes ending in death.
10 If the cause of death cannot be determined within the period of
11 time stated above, the death certificate shall be filed to
12 establish the fact of death. As soon as possible thereafter, and
13 not more than six weeks later, supplemental information as to the
14 cause, disease, or sequence of causes ending in death shall be
15 filed with the department to complete the record. For all
16 certificates stated in terms that are indefinite, insufficient, or
17 unsatisfactory for classification, inquiry shall be made to the
18 person completing the certificate to secure the necessary
19 information to correct or complete the record.

20 (3) A completed death certificate shall be filed with the
21 Department of Health and Human Services Finance and Support within
22 five business days after the date of death. If it is impossible to
23 complete the certificate of death within five business days, the
24 funeral director, ~~and~~ embalmer, or chief medical examiner shall
25 notify the department of the reason for the delay and file the
26 certificate as soon as possible.

27 (4) Before any dead human body may be cremated, a
28 cremation permit shall first be signed by the ~~county attorney, or~~

1 by his or her authorized representative as designated by the county
2 attorney in writing, of the county in which the death occurred
3 chief medical examiner or his or her designee on a form prescribed
4 and furnished by the Department of Health and Human Services
5 Finance and Support.

6 (5) A permit for disinterment shall be required prior to
7 disinterment of a dead human body. The permit shall be issued by
8 the Department of Health and Human Services Finance and Support to
9 a licensed funeral director and embalmer upon proper application.
10 The request for disinterment shall be made by the next of kin of
11 the deceased, as listed in section 71-1339, or a county attorney or
12 chief medical examiner on a form furnished by the department. The
13 application shall be signed by the funeral director and embalmer
14 who will be directly supervising the disinterment. When the
15 disinterment occurs, the funeral director and embalmer shall sign
16 the permit giving the date of disinterment and file the permit with
17 the department within ten days of the disinterment.

18 (6) When a request is made under subsection (5) of this
19 section for the disinterment of more than one dead human body, an
20 order from a court of competent jurisdiction shall be submitted to
21 the Department of Health and Human Services Finance and Support
22 prior to the issuance of a permit for disinterment. The order
23 shall include, but not be limited to, the number of bodies to be
24 disinterred if that number can be ascertained, the method and
25 details of transportation of the disinterred bodies, the place of
26 reinterment, and the reason for disinterment. No sexton or other
27 person in charge of a cemetery shall allow the disinterment of a
28 body without first receiving from the department a disinterment

1 permit properly completed.

2 (7) No dead human body shall be removed from the state
3 for final disposition without a transit permit issued by the
4 funeral director and embalmer having charge of the body in
5 Nebraska, except that when the death is subject to investigation,
6 the transit permit shall not be issued by the funeral director and
7 embalmer without authorization of the ~~county attorney of the county~~
8 ~~in which the death occurred~~ chief medical examiner or his or her
9 designee. No agent of any transportation company shall allow the
10 shipment of any body without the properly completed transit permit
11 prepared in duplicate.

12 (8) The interment, disinterment, or reinterment of a dead
13 human body shall be performed under the direct supervision of a
14 licensed funeral director and embalmer, except that hospital
15 disposition may be made of the dead human body of a stillborn
16 infant with due respect for the stillborn infant and in accordance
17 with existing law when requested by the parents or legal guardian.

18 (9) All transit permits issued in accordance with the law
19 of the place where the death occurred in a state other than
20 Nebraska shall be signed by the funeral director and embalmer in
21 charge of burial and forwarded to the Department of Health and
22 Human Services Finance and Support within five business days after
23 the interment takes place.

24 Sec. 51. Section 71-605.04, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-605.04. The county attorney or ~~coroner~~ or chief
27 medical examiner or his or her designee shall, within two days of
28 the issuance of the autopsy results showing death suspected due to

1 the sudden infant death syndrome, notify a representative of the
2 Nebraska Sudden Infant Death Syndrome Foundation or the appropriate
3 area community mental health center of the name of the parents of
4 the sudden infant death syndrome victim.

5 Sec. 52. Section 71-1612, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-1612. The board of health shall have and exercise,
8 subject to the statutes, the executive power and authority and
9 shall assume the responsibility concerning public health and
10 remedial care and treatment of the indigent sick people, now or
11 hereafter vested by statutes or regulations in each and every
12 governmental subdivision within the health district, and the board
13 shall have the title, control, and management of the property owned
14 by such governmental subdivisions and used exclusively for such
15 health activities. All the functions now performed by any
16 physician, except the ~~coroner's physician~~ chief medical examiner or
17 his or her designee and the insanity board's physician, or nurse
18 employed by any governmental subdivision within the district, and
19 any ~~and all~~ inspectors of foods, drinks, and the sanitary condition
20 of property, vest in the health district which may be created by
21 ~~the provisions of~~ sections 71-1601 to 71-1625. The management and
22 control of all hospitals, buildings, and personal property used
23 exclusively in the medical care and treatment of the indigent sick
24 people, and the segregation of those persons afflicted with
25 infectious and contagious diseases, shall be in the ~~said~~ health
26 district. The health district shall ~~have the power and it shall be~~
27 ~~its duty to~~ adopt measures for the control and eradication of
28 preventable or communicable diseases, the inculcation of modern

1 scientific methods of hygiene and sanitation, and the education of
2 the public in matters relating to public health.

3 Sec. 53. Section 71-3405, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-3405. For purposes of sections 71-3404 to 71-3411:

6 (1) Child ~~shall mean~~ means a person from birth to
7 eighteen years of age;

8 (2) Investigation ~~shall mean~~ means a review of existing
9 records and other information regarding the child from relevant
10 agencies, professionals, and providers of medical, dental,
11 prenatal, and mental health care. The records to be reviewed may
12 include, but not be limited to, medical records, ~~coroner's~~ medical
13 examiner's reports, autopsy reports, social services records,
14 emergency and paramedic records, and law enforcement reports;

15 (3) Medical examiner means the chief medical examiner or
16 his or her designee;

17 (4) Preventable child death ~~shall mean~~ means the death of
18 any child which reasonable medical, social, legal, psychological,
19 or educational intervention may have prevented. Preventable child
20 death ~~shall include~~ includes, but not be limited to, the death of a
21 child from (a) intentional and unintentional injuries, (b) medical
22 misadventures, including untoward results, malpractice, and
23 foreseeable complications, (c) lack of access to medical care, (d)
24 neglect and reckless conduct, including failure to supervise and
25 failure to seek medical care for various reasons, and (e)
26 preventable premature birth;

27 ~~(4)~~ (5) Reasonable ~~shall mean~~ means taking into
28 consideration the condition, circumstances, and resources

1 available; and

2 ~~(5)~~ (6) Team ~~shall mean~~ means the State Child Death
3 Review Team.

4 Sec. 54. Section 71-3408, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-3408. The chairperson of the team shall:

7 (1) Have the necessary information from investigative
8 reports, medical records, ~~coroner's~~ medical examiner's reports,
9 autopsy reports, and other relevant items made available to the
10 team;

11 (2) Ensure timely notification of the team members of an
12 upcoming meeting;

13 (3) Chair meetings of the team;

14 (4) Ensure that all team reporting and data-collection
15 requirements are met;

16 (5) Ensure identification of strategies to prevent child
17 deaths;

18 (6) Oversee adherence to the review process established
19 by sections 71-3404 to 71-3411; and

20 (7) Perform such other duties as the team deems
21 appropriate.

22 Sec. 55. Section 71-3409, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-3409. (1) The team shall review all child deaths.
25 ~~occurring on or after January 1, 1993.~~ The review process shall be
26 conducted in three phases.

27 (2) Phase one shall be conducted by the core members.
28 The core members shall review the death certificate, birth

1 certificate, ~~coroner's~~ medical examiner's report or autopsy report
2 if done, and indicators of child or family involvement with the
3 Department of Health and Human Services. The core members shall
4 classify the nature of the death, whether accidental, homicide,
5 suicide, undetermined, or natural causes, determine the
6 completeness of the death certificate, and identify discrepancies
7 and inconsistencies. The core members may select cases from phase
8 one for review in phase two.

9 (3) Phase two shall be completed by the core members and
10 shall not be conducted on any child death under active
11 investigation by a law enforcement agency or under criminal
12 prosecution. The core members may seek additional records
13 described in section 71-3410. The core members shall identify the
14 preventability of death, the possibility of child abuse or neglect,
15 the medical care issues of access and adequacy, and the nature and
16 extent of interagency communication. The core members may select
17 cases from phase two for review by the team in phase three.

18 (4) Phase three shall be a review by the team of those
19 cases selected by the core members for further discussion, review,
20 and analysis.

21 Sec. 56. Section 71-3410, Revised Statutes Supplement,
22 1998, is amended to read:

23 71-3410. Upon request the team shall be immediately
24 provided:

25 (1) Information and records maintained by a provider of
26 medical, dental, prenatal, and mental health care, including
27 medical reports, autopsy reports, and emergency and paramedic
28 records; and

1 (2) All information and records maintained by any state,
2 county, or local government agency, including, but not limited to,
3 birth and death certificates, law enforcement investigative data
4 and reports, ~~coroner~~ medical examiner investigative data and
5 reports, parole and probation information and records, and
6 information and records of any social services agency that provided
7 services to the child or the child's family.

8 The Director of Health and Human Services shall have the
9 authority to issue subpoenas to compel production of any of the
10 records and information specified in subdivisions (1) and (2) of
11 this section, except records and information on any child death
12 under active investigation by a law enforcement agency or which is
13 at the time the subject of a criminal prosecution, and shall
14 provide such records and information to the team.

15 Sec. 57. Section 71-4813, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-4813. When an autopsy is performed by the ~~physician~~
18 ~~authorized by the county coroner to perform such autopsy~~ chief
19 medical examiner or his or her designee, ~~the physician or an~~
20 appropriately qualified ~~designee~~ with training in ophthalmologic
21 techniques, as provided for in subsection (2) of section 71-4807,
22 may remove eye tissue of the decedent for the purpose of
23 transplantation. The ~~physician~~ chief medical examiner or his or
24 her designee may also remove the pituitary gland for the purpose of
25 research and treatment of hypopituitary dwarfism and of other
26 growth disorders. Removal of the eye tissue or the pituitary gland
27 shall only take place if the:

28 (1) Autopsy was authorized by the ~~county coroner~~ chief

1 medical examiner or his or her designee;

2 (2) ~~County coroner~~ Chief medical examiner or his or her
3 designee receives permission from the person having control of the
4 disposition of the decedent's remains pursuant to section 71-1339;
5 and

6 (3) Removal of eye tissue or of the pituitary gland will
7 not interfere with the course of any subsequent investigation or
8 alter the decedent's post mortem facial appearance.

9 The removed eye tissue or pituitary gland shall be
10 transported to the Director of Regulation and Licensure or any
11 desired institution or health facility as prescribed by section
12 71-1341.

13 Sec. 58. Section 83-1011, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 83-1011. Peace officer shall mean a sheriff, ~~coroner,~~
16 jailer, marshal, police officer, or member of the Nebraska State
17 Patrol.

18 Sec. 59. Sections 3 and 13 of this act become operative
19 on the effective date of this act. The remaining sections of this
20 act become operative on July 1, 2000.

21 Sec. 60. If any section in this act or any part of any
22 section is declared invalid or unconstitutional, the declaration
23 shall not affect the validity or constitutionality of the remaining
24 portions.

25 Sec. 61. Original sections 12-1208, 23-1206, 23-1801,
26 23-1802, 28-1804 to 23-1806, 23-1808 to 23-1823, 25-1223, 25-1230,
27 25-1232, 25-1524, 25-1542, 25-1548, 25-2202, 29-407, 29-1401,
28 29-2815, 49-801, 60-6,101, 60-6,102, 71-605.04, 71-1612, 71-3405,

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1 71-3408, 71-3409, 71-4813, and 83-1011, Reissue Revised Statutes of
2 Nebraska, and sections 71-605 and 71-3410, Revised Statutes
3 Supplement, 1998, are repealed.

4 Sec. 62. The following section is outright repealed:
5 Section 23-1210, Reissue Revised Statutes of Nebraska.